SANJIV

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2157 OF 2006

Shri Harish G. Motwani. ....Petitioner

Vs.

Shri Sushil J. Gupta & Ors. ....Respondents

Mr Vikas Shivarkar for petitioner.

Mr. Tushar Pimple for respondent 1.

Ms. M. H. Mhatre, APP for the State.

CORAM : SMT. RANJANA DESAI, J.

DATE : 23TH NOVEMBER, 2006.

P. C.:-

1. The petitioner alongwith his wife Sunita, was tried in three criminal cases being Summary Criminal Case Nos. 347/1998, 348/1998 and 349/1998 in the Court of Judicial Magistrate, First Class, 5th Court, Pune for the offence under

Section 138 of the Negotiable Instruments Act. Allegations in each of these cases are that the petitioner had given cheque for the sum of Rs. 50,000/- in each of these cases to the complainant and the cheques when presented for encashment, bounced. By judgment and order dated 28/07/2003 in each of these cases, Sunita H. Motwani, original accused 2 was acquitted and accused 1 was found guilty of the offence under Section 138 of the Negotiable Instruments Act. He was sentenced to suffer S. I. for one month and to pay a fine of Rs.5,000/- , in default of payment of fine, he was to suffer simple imprisonment for seven days.

2. Being aggrieved by these judgments, the petitioner preferred criminal appeals in the Sessions Court at Pune. There was a delay of one day in filing the appeals. The application for condonation of delay was dismissed for default. Being aggrieved by the said order, the petitioner has filed this writ petition.

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3. It appears that thereafter, the petitioner has paid the

entire cheque amount to the complainant in each of these cases. Affidavits to that effect have been filed by Shri Sushil Gupta, the son of the original complainant and Smt. Kausalya Jagdish Gupta, the wife of the original complainant. In these affidavits, the deponents have clearly stated that they have no grievance against the petitioner and they do not want to proceed further with these appeals. Drawing my attention to these affidavits, the learned counsel for the petitioner contended that in view of the above facts, under Section 147 of the Negotiable Instruments Act, the offences may be compounded. The learned counsel for respondent 1 also reiterated the same submission. Hence, I pass the following order.

4. In view of the fact that the entire cheque amount involved in each of the three cases being Summary Criminal Case Nos. 347/1998, 348/1998 and 349/1998 has been paid over by the petitioner to the original complainant's son

and wife, offences under Section 138 of the Negotiable Instruments Act for which the petitioner was tried in the said

cases by the court of Judicial Magistrate, First Class, Court No. 5, Pune are compounded. Needless to say that necessary consequences will follow. Petition is disposed of in the aforestated terms.

5. In view of the above, the non-bailable warrants issued against the petitioner in the above three cases, stand cancelled.

(SMT. RANJANA DESAI, J)